United Nations A/65/679

General Assembly

Distr.: General
18 January 2011

Original: English

Sixty-fifth session
Agenda item 113 (g)
Appointments to fill vacancies in subsidiary organs and other appointments: appointment of a judge of the United Nations Appeals Tribunal

Appointment of a judge of the United Nations Appeals Tribunal

Memorandum by the Secretary-General

I. Introduction

1. By its resolution 62/228, entitled "Administration of justice at the United Nations", the General Assembly decided, inter alia, to establish a two-tier formal system of administration of justice, comprising a first instance United Nations Dispute Tribunal (Dispute Tribunal) and an appellate instance United Nations Appeals Tribunal (Appeals Tribunal).

2. In the same resolution, the General Assembly also decided that the judges of the Dispute Tribunal and the Appeals Tribunal would be appointed by the General Assembly on the recommendation of the Internal Justice Council.

3. The statutes of the Dispute Tribunal and the Appeals Tribunal were adopted by the General Assembly in its resolution 63/253. The two Tribunals became operational on 1 July 2009.

4. On 2 March 2009, the General Assembly appointed the judges of the Appeals Tribunal on the basis of the recommendations of the Internal Justice Council, as set out in its report (A/63/489), and pursuant to the procedures outlined by the Secretary-General in his memorandum (A/63/701).

5. On 11 October 2010, Judge Rose Boyko informed the Executive Director of the Office of Administration of Justice that, for personal reasons, she was resigning her position as judge of the Appeals Tribunal, effective 15 January 2011.

6. It is therefore necessary for the General Assembly, at its sixty-fifth session, to appoint a judge to the Appeals Tribunal. The term of office of that judge will be the remainder of the seven-year term of Judge Boyko, which commenced on 1 July 2009.

10-71305 (E) 180111

Please recycle

II. Internal Justice Council

7. Given the imminent vacancy in the Appeals Tribunal arising from the resignation of Judge Boyko, the Council held a teleconference and determined that, since there were suitable candidates available from the previous round of appointments, and given the heavy workload of the Tribunal and the urgent need to replace Judge Boyko, the Council would put forward candidates who had been considered but not selected in the initial appointment of judges to the Appeals Tribunal.

8. In considering who to nominate for the vacancy, the Council took into account the geographical distribution of States reflected by the current members of the Tribunal. It also took into account a range of other considerations, including language ability and depth of experience in the field of administrative and labour law.

9. In its most recent report (A/65/671), the Internal Justice Council recommends three candidates to the General Assembly for consideration for appointment as a judge of the Appeals Tribunal. All three were examined and interviewed by the Council in September 2008 and recommended for appointment (see A/63/489). They have indicated that they are available for appointment, if selected. All three candidates are from countries currently not represented on the Tribunal.

10. The candidates recommended by the Council for appointment are:

(a) Mary Faherty (Ireland);

(b) Roy Lewis (United Kingdom of Great Britain and Northern Ireland);

(c) Brian Tamberlin (Australia).

11. The candidates' curricula vitae are provided in the annex to the above-mentioned report of the Internal Justice Council (A/65/671).

III. Procedure in the General Assembly

12. The appointment of the judges of the United Nations Appeals Tribunal will be made in accordance with the following:

(a) The statute of the Appeals Tribunal;

(b) The rules of procedure of the General Assembly;

(c) The recommendations of the Internal Justice Council as set out in its report to the General Assembly (A/65/671).

13. The appointment of a judge to the United Nations Appeals Tribunal is addressed in article 3 of its statute, which states:

"2. The judges shall be appointed by the General Assembly on the recommendation of the Internal Justice Council in accordance with General Assembly resolution 62/228. No two judges shall be of the same nationality. Due regard shall be given to geographical distribution and gender balance.

"3. To be eligible for appointment as a judge, a person shall:

(a) Be of high moral character; and

(b) Possess at least 15 years of judicial experience in the field of administrative law, or the equivalent within one or more national jurisdictions.

"4. A judge of the Appeals Tribunal shall be appointed for one non-renewable term of seven years. As a transitional measure, three of the judges initially appointed, to be determined by drawing of lots, shall serve three years and may be reappointed to the same Appeals Tribunal for a further non-renewable term of seven years. A current or former judge of the Dispute Tribunal shall not be eligible to serve in the Appeals Tribunal."

14. With respect to the resignation of a judge before the expiry of his or her term of office, article 3(5) of the statute of the Appeals Tribunal states that:

"A judge of the Appeals Tribunal appointed to replace a judge whose term of office has not expired shall hold office for the remainder of his or her predecessor's term and may be reappointed for one non-renewable term of seven years, provided that the unexpired term is less than three years."

15. It is proposed that the General Assembly proceed to appoint a judge of the Appeals Tribunal by holding an election, bearing in mind paragraph 58 of General Assembly resolution 63/253, in which the Assembly invites Member States, when electing judges to the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, to take due consideration of geographical distribution and gender balance. Only the three candidates whose names appear in the present memorandum are eligible for election. The electors in the General Assembly will indicate the candidate for whom they wish to vote by placing a cross against his or her name on the ballot paper. Each elector may vote for not more than one candidate.

16. The candidate who obtains the highest number of votes and a majority of votes in the General Assembly of the members present and voting will be considered as elected and thereby appointed by the Assembly as a judge of the Appeals Tribunal.